

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LORENZO HEROLD NELSON,

Defendant-Appellant.

UNPUBLISHED

April 9, 2002

No. 228020

Kent Circuit Court

LC No. 99-009338-FH

Before: K.F. Kelly, P.J. and Doctoroff and Cavanagh, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for breaking and entering with intent to commit larceny, MCL 750.110, and felonious assault, MCL 750.82. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court abused its discretion in failing to appoint substitute trial counsel. Appointment of substitute counsel is only warranted upon a showing of good cause and where substitution will not unreasonably disrupt the judicial process. *People v Mack*, 190 Mich App 7, 14; 475 NW2d 830 (1991). Good cause exists where a legitimate difference of opinion develops between a defendant and his appointed counsel with regard to a fundamental trial tactic. *Id.*

Here, defendant waived his right to seek substitute counsel. *People v Carter*, 462 Mich 206; 612 NW2d 144 (2000). Although defendant was displeased with the performance of counsel prior to trial, he agreed on the record to proceed with trial with the continued representation of counsel. The trial court was not called upon to exercise its discretion, and it did not have a duty to sua sponte order a continuance to replace appointed counsel. See *People v Elston*, 462 Mich 751, 764; 614 NW2d 595 (2000).

Affirmed.

/s/ Kirsten Frank Kelly

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh